

**2SHB 1131 - H AMD 206**

By Representative Harris

**NOT CONSIDERED 01/02/2024**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that, as of 2023,  
4 Washington's statewide waste recovery rate, which seeks to preserve  
5 public health, safety, and welfare, and conserve energy and natural  
6 resources, needs to be improved. The legislature further finds that  
7 there is not sufficient data currently collected and reported to  
8 effectively analyze current rates, trends, and challenges in  
9 recycling. The legislature further finds that in order to develop  
10 appropriate strategies to increase the statewide waste recovery rate,  
11 robust data is needed. It is therefore the intent of the legislature  
12 to collect sufficient data and develop performance rates for the  
13 recycling of packaging and paper products sold or supplied to  
14 consumers for personal use. In order to achieve this, the legislature  
15 intends to conduct a thorough needs assessment to identify necessary  
16 funding, infrastructure, and investments to achieve recommended  
17 performance rates.

18 NEW SECTION. **Sec. 2.** The definitions in this section apply  
19 throughout this chapter unless the context clearly requires  
20 otherwise.

21 (1) "Covered product" means packaging and paper products sold or  
22 supplied to consumers for personal use.

23 (2) "Department" means the department of ecology.

24 (3) "Eliminate" or "elimination," with respect to source  
25 reduction, means the removal of a plastic component from a covered  
26 material without replacing that component with a nonplastic  
27 component.

28 (4) "Material category" means a group of covered products that  
29 have similar properties such as chemical composition, shape, or other  
30 characteristics including, but not limited to:

31 (a) Plastic beverage containers;

32 (b) Rigid plastic, excluding plastic beverage containers;

- 1 (c) Flexible plastic;
- 2 (d) Paper;
- 3 (e) Aluminum;
- 4 (f) Steel; and
- 5 (g) Glass.

6 (5) "Overburdened communities" means the overburdened communities  
7 identified and prioritized by the department under RCW  
8 70A.02.050(1)(a).

9 (6) "Reusable" means:

10 (a) For packaging that is reused or refilled, the packaging  
11 satisfies all of the following:

12 (i) Explicitly designed and marketed to be utilized multiple  
13 times for the same product, or for another purposeful packaging use  
14 in a supply chain;

15 (ii) Designed for durability to function properly in its original  
16 condition for multiple cycles of reuse or refill;

17 (iii) Supported by adequate infrastructure to ensure the  
18 packaging can be conveniently and safely reused or refilled for  
19 multiple cycles; and

20 (iv) Repeatedly recovered, inspected, and reissued into the  
21 supply chain for reuse or refill for multiple cycles.

22 (b) For packaging that is reused or refilled by a consumer, the  
23 packaging satisfies all of the following:

24 (i) Explicitly designed and marketed to be utilized multiple  
25 times for the same product;

26 (ii) Designed for durability to function properly in its original  
27 condition for utilization in multiple cycles of reuse or refill; and

28 (iii) Supported by adequate and convenient availability of retail  
29 infrastructure to ensure the packaging can be conveniently and safely  
30 reused or refilled by the consumer multiple times.

31 NEW SECTION. **Sec. 3.** (1) To inform the future development of  
32 strategies to increase recovery rates, the department must conduct a  
33 performance rates study and a statewide needs assessment that must  
34 be:

35 (a) Carried out by a third-party consultant selected by the  
36 department; and

37 (b) Funded through fees paid by producers registered under  
38 chapter 70A.245 RCW.

1 (2) (a) The performance rates study must be completed by September  
2 1, 2024, and must:

3 (i) Use the recycling rates from the study submitted to the  
4 legislature pursuant to section 302(59), chapter 297, Laws of 2022;

5 (ii) Review the performance rates set and achieved in other  
6 jurisdictions and evaluate whether those rates are applicable in the  
7 state;

8 (iii) Recommend performance rates, including:

9 (A) A rate for the overall combined reuse and recycling of  
10 covered products;

11 (B) A separate specific minimum reuse rate, that must be counted  
12 within the overall combined reuse and recycling rate;

13 (C) A source reduction rate to be achieved solely by eliminating  
14 plastic components; and

15 (D) Performance rates for specific material categories of covered  
16 products including, but not limited to, beverage containers, mixed  
17 paper, plastic packaging, glass, and cardboard.

18 (b) Recommendations under (a) of this subsection must consider  
19 the feasibility of achieving recommended rates based on current rates  
20 achieved as well as current infrastructure in the state, rates  
21 achieved in other jurisdictions, and additional relevant data. The  
22 recommended performance rates must be designed to be achieved for  
23 covered products statewide by 2032.

24 (c) Stakeholders must have the opportunity to review and comment  
25 on a draft performance rates study at least 30 days prior to its  
26 completion.

27 (3) The statewide needs assessment must be completed by July 1,  
28 2025, and must be consistent with the following requirements:

29 (a) The final scope of the statewide needs assessment must be  
30 determined after considering comments and recommendations from  
31 stakeholders; and

32 (b) Stakeholders must have the opportunity to review and comment  
33 on the draft statewide needs assessment at least 30 days prior to its  
34 completion.

35 (4) The statewide needs assessment must be:

36 (a) Informed by the findings and recommendations of the  
37 performance rates study established in this section and rates and  
38 other comments suggested by stakeholders; and

39 (b) Accepted from the selected consultant as complete by the  
40 department.

1 (5) The statewide needs assessment must:

2 (a) Evaluate the capacity, costs, gaps, and needs for the  
3 following factors necessary to achieve performance rate  
4 recommendations developed under subsection (1) of this section:

5 (i) Availability and types of recycling services for covered  
6 products;

7 (ii) Education and outreach activities;

8 (iii) Availability and performance of collection, transport, and  
9 processing capacity and infrastructure, including consideration of  
10 material quality and contamination;

11 (iv) Availability and performance of collection, transport, and  
12 processing capacity and infrastructure to manage compostable covered  
13 products, including consideration of the material quality and  
14 contamination;

15 (v) Necessary capital investments to existing reuse and recycling  
16 infrastructure; and

17 (vi) Infrastructure or other factors necessary to enable reuse of  
18 covered products or the recycling of covered products not currently  
19 recycled in the residential recycling system;

20 (b) Compile information related to actual costs incurred by  
21 government entities for curbside collection services, drop-off  
22 collection services, and other information relevant to the funding  
23 requirements to achieve performance rates, including costs for  
24 various service methods recommended by stakeholders during the study  
25 scoping process;

26 (c) Identify cost factors and other variables to be considered in  
27 the development of base cost formulas for establishing per unit  
28 funding needs for government entities for curbside collection  
29 services needed to achieve performance rates developed under  
30 subsection (1) of this section. Cost factors and variables to be  
31 considered in the base cost formulas include:

32 (i) Population size and density of a local jurisdiction;

33 (ii) Types of households serviced and collection method used;

34 (iii) Distance from a local jurisdiction to the nearest recycling  
35 facility;

36 (iv) Whether a jurisdiction pays for transportation and sorting  
37 of collected materials and whether it receives a commodity value from  
38 processed materials;

39 (v) Geographic location or other variables contributing to  
40 regional differences in costs;

1 (vi) Cost increases over time; and  
2 (vii) Any other factors as determined to be necessary by the  
3 department, with input from stakeholders;

4 (d) Identify cost factors and other variables to be considered in  
5 the development of funding estimates for government entities for any  
6 services other than curbside collection to be carried out by  
7 government entities that may be needed to achieve performance rates  
8 developed under subsection (1) of this section;

9 (e) Compile relevant information to be considered in the  
10 development of criteria by the department to determine whether a  
11 covered product is recyclable, reusable, or compostable through  
12 Washington's curbside recycling collection system. The relevant  
13 information to be compiled may include whether covered product  
14 materials are:

15 (i) Or may be, collected, separated, and processed in sufficient  
16 quantity and quality into a marketable feedstock that can be used in  
17 the production of new products; or

18 (ii) Designed in a way that is problematic for reuse, recycling,  
19 or composting;

20 (f) Evaluate how the state's recycling system can be managed in a  
21 socially just manner as it relates to activities required under this  
22 chapter. The assessment must:

23 (i) Include meaningful consultation with overburdened communities  
24 and vulnerable populations;

25 (ii) Determine conditions and make recommendations including, at  
26 minimum:

27 (A) The availability of opportunities in the recycling system for  
28 women and minority individuals;

29 (B) The sufficiency of local government requirements related to  
30 multifamily recycling services and their implementation;

31 (C) Identification of activities that disproportionately impact  
32 any community and in particular overburdened communities and  
33 vulnerable populations;

34 (D) The sufficiency of recycling education and outreach programs  
35 relative to desired socially just management outcomes;

36 (E) Recommendations for improving socially just management  
37 practices and outcomes in the state's recycling system; and

38 (F) Evaluate the extent to which covered products contribute to  
39 litter and marine debris. The assessment should draw on available

1 data, assess gaps, and identify strategies for improving prevention  
2 and cleanup of litter and marine debris from covered products; and

3 (g) Compile information from available data sources on the  
4 presence of toxic substances in covered products and their potential  
5 impacts on reuse, recycling, and composting systems. The information  
6 compiled is intended to inform the development of ecomodulation  
7 factors that incentivize the reduction of toxic substances that have  
8 potentially negative impacts when covered products are managed  
9 through reuse, recycling, and composting systems.

10 NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act  
11 constitute a new chapter in Title 70A RCW."

12 Correct the title.

EFFECT: Strikes the underlying extended producer responsibility program, deposit return program, and postconsumer recycled content requirements, except (1) retaining a modified intent section and a narrowed definitions section, and (2) requiring producers registered with the department of ecology (ecology) under existing postconsumer recycled content requirements to pay for a performance rates study and needs assessment to be carried out by a third-party consultant selected by ecology. Provides for the performance rates study and needs assessments to be carried out in a manner similar to the rates study and needs assessment contained in the underlying bill, except that the striking amendment removes references to producer responsibility programs in other states, and removes references to eliminated components of the underlying bill.

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